

STATE OF CALIFORNIA  
FISH AND GAME COMMISSION  
FINAL STATEMENT OF REASONS FOR REGULATORY ACTION

Add Section 1.91 and Amend Sections 1.90, 27.60, 27.82, 28.27, 28.28,  
28.29, 28.54, 28.55, and 28.58  
Title 14, California Code of Regulations (CCR).  
Re: Take of Nearshore/Shelf/Slope Rockfish,  
Lingcod, Cabezon, Greenlings, California Scorpionfish and Ocean Whitefish  
for Consistency With Pacific Fishery Management Council Rules

- I. Date of Initial Statement of Reasons: August 27, 2002  
Date of Amended Initial Statement of Reasons: September 24, 2002
- II. Date of Pre-adoption Statement of Reasons: September 30, 2002
- III. Date of Final Statement of Reasons: November 25, 2002
- IV. Dates and Locations of Scheduled Hearings:
  - (a) Notice Hearing: Date: August 2, 2002  
Location: San Luis Obispo, CA
  - (b) Discussion Hearing Date: August 29, 2002  
Location: Oakland, CA
  - (c) Adoption Hearing: Date: October 25, 2002  
Location: Crescent City, CA
- V. Update:

The Pacific Fishery Management Council (Council) met September 10-13, 2002 and developed final regulatory recommendations affecting ocean recreational and groundfish fisheries and fisheries for associated species commencing January 1, 2003. The Commission took action at its October 25, 2002 meeting in Crescent City to adopt these changes to California's sport fishing regulations. This action results in the conformation of state regulations to new federal regulations expected to be adopted by the National Marine Fisheries Service (NMFS) based on the Council's recommendations.

The following is a section-by-section description of all measures noticed in the Amended Initial Statement of Reasons (ISOR) published September 24, 2002 that were under consideration for adoption by the Commission at the October

25<sup>th</sup> meeting in Crescent City. The Commission's decision and rationale for the resulting revisions to California's marine sportfishing regulations are provided.

**Section 1.90: Nearshore Fish Stocks, Nearshore Fisheries, Nearshore Waters, and Shallow Nearshore Rockfish Defined.**

The Commission adopted proposed subsection (e), which defines a subgroup of rockfishes known as "shallow nearshore rockfish," to include black-and-yellow, China, gopher, grass, and kelp rockfish species. Defining this new subgroup of nearshore fish stocks was necessary because the new federal regulations establish both an optimum yield (OY) and an aggregate bag limit in Section 27.60 for this species group.

**1.91. Rockfish, Cabezon and Greenling Complex (RCG Complex)**

The Commission adopted new Section 1.91, which defines the "RCG complex" as the aggregate of all species of rockfish, cabezon, and greenlings. As with Section 1.90, this definition was required in order for the Commission to adopt a 10-fish RCG complex bag limit in Section 27.60. This 10-fish bag limit was developed and implemented by the Council as a way to allow for the longest possible sport fishing season for rockfish south of Cape Mendocino, while keeping catches within the allowable OYs for each of the new subgroups of minor nearshore rockfishes in this geographic area.

A technical and non-substantive change was made to the regulatory text noticed in the Amended ISOR, which referred to this newly-defined species group as "groundfish." Upon consultation with regulatory staff members of NMFS, it was agreed that using the term "groundfish" to define the RCG complex was confusing to the public and in conflict with the federal definition of "groundfish," which includes all 82 species covered under the federal Pacific Coast Groundfish Fishery Management Plan. The term "RCG complex" was determined by Department and NMFS personnel to be a more appropriate term. Corrections were made throughout the proposed regulatory language where the reference was made to this species group in regulation.

**27.60. Limit.**

The Commission adopted proposed amendments to subsection (b) of this Section, including minor changes to the regulatory language from what was proposed in the Amended ISOR published September 24, 2002. There was a need to make slight grammatical revisions to the proposed language in this Section for clarity, due to the establishment of new bag limits in the areas of the state south of Cape Mendocino for the species groups newly defined in Sections 1.90 and 1.91. These grammatical changes will aid in the public's understanding of the new regulations.

Additionally, there were two items noticed in the Amended ISOR that were not adopted. For the Northern Rockfish and Lingcod Management Area, the Commission retained the status-quo bag limit of 10 rockfish and 2 lingcod. Additionally, the Commission maintained status-quo provisions for a two-fish bocaccio limit in the northern area, a one-fish canary rockfish limit, and a maximum allowance of one yelloweye per person with not more than two fish per boat. The proposed language in the Amended ISOR called for a zero bag limit for bocaccio and the option of a zero-fish bag limit option for yelloweye that would be accompanied by the elimination of the requirement that only two yelloweye be retained per vessel. In the case of bocaccio, the constraining federal OY is only instituted for the bocaccio resource in waters south of Cape Mendocino (the Central and Southern Rockfish and Lingcod Management Areas), and there is no federal bocaccio OY that would apply to the northern area. Therefore, the Commission did not adopt the proposed changes to the bocaccio, canary and yelloweye limits in the northern area as there was no biological reason to be more restrictive for these species in the northern area than last year.

The specific changes to the bag limit adopted for the central and southern areas as proposed in the Amended ISOR establish an RCG complex bag limit of 10 fish, a 3-fish sub-limit for cabezon, a 2-fish sub-limit for greenlings, and a 2-fish sub-limit for shallow nearshore rockfish. By establishing an aggregate bag limit for these RCG complex species, it was no longer necessary to specify a bag limit for rockfish. Additionally, the proposed reduction in the California scorpionfish bag limit from 10 fish to 5 fish was approved by the Commission to keep within a new federal OY for this species. All changes to the bag limits made by the Council and are intended to provide for the longest fishing season possible within the constraints of the various OYs that apply to rockfish stocks and associated species. The RCG complex bag limit will reduce the potential rockfish catch but will still allow anglers to catch up to 10 rockfish within the overall 10-fish RCG complex limit. This was a high priority among the various interest groups present at the Council meeting that participated in the stakeholder involvement process.

#### **27.65. Filleting of Fish on Vessels.**

The Commission did not adopt any of the proposed changes to this Section. No change to the lingcod minimum fillet length in subsection (b)(3) was warranted, given that the Commission did not opt to reduce the overall minimum size limit for lingcod. Mirroring the actions by the Council, the Commission retained a lingcod size limit of 24 inches statewide, which equates to the current 16-inch minimum fillet length. Likewise, the proposed elimination of the 5-inch minimum fillet length for bocaccio in subsection (b)(8) was not adopted. Since bocaccio retention will continue to be authorized in the northern area, maintaining the regulation specifying a minimum fillet size limit that equates to the 10-inch

minimum size limit for bocaccio continues to be needed.

**27.82. Management Areas Defined; Closed and Open Periods Defined.**

Changes to this Section were adopted by the Commission as proposed, although non-substantive grammatical changes to the regulatory language were made for clarity. Based on the Council's actions, the Commission adopted a closure period in the northern area that is "triggered" by attainment of federal OYs for either yelloweye or canary rockfish, based on in-season monitoring of catch levels. If an OY is reached before the end of the year, fishing for rockfish and lingcod in waters of the continental shelf in depths 27 fathoms or greater will be prohibited pursuant to subsection (d). This closure "trigger" is expected to allow for a greater amount of shelf fishing opportunity than would otherwise be provided under a fixed seasonal regulation. Additionally, the Commission affirmed the 12-month closure to fishing on the continental shelf (waters 20 fathoms and greater) for rockfish and lingcod in both the central and southern areas. This was done to keep catches within very restrictive OYs for overfished species of rockfish, particularly bocaccio.

The Commission also continued to authorize fishing for rockfish and lingcod in shallow waters under specifications of subsection (d), conforming to the federal decisions. In the northern area, following the closure of the shelf when an OY trigger is reached as described above, fishing for rockfish and lingcod will continue to be allowed in waters less than 27 fathoms in depth under more restrictive bag limits as defined in Section 28.55 (b)(1). In the central and southern areas, fishing for rockfish and lingcod is authorized in waters less than 20 fathoms in depth during the months of July through December, which was the maximum season length that could be allowed while keeping catches for nearshore rockfish within federal OYs. Additionally, an allowance was made for the take of scorpionfish in the central and southern areas in the months of January and February in waters less than 20 fathoms in depth only.

A second allowance was made for scorpionfish that provides for fishing in waters less than 50 fathoms in depth in the months of July and August only in the area of Huntington Flats. Minor modifications were made to the regulatory language as noticed in the Amended ISOR to more accurately and clearly define the geographic boundary areas of this region, based on input from Department enforcement staff. This deeper-water fishing opportunity for scorpionfish only was provided for recreational anglers to be consistent with an allowance made for a small directed commercial fishery in this area and depth for scorpionfish during these two months only. The allowance was made on the basis that scorpionfish found in this sandy-bottom habitat are not usually associated with shelf rockfish and especially not overfished species such as bocaccio.

Modifications to subsection (e) were approved by the Commission which specify

that take and possession of rockfish, lingcod, sheephead, cabezon, kelp or rock greenlings, scorpionfish, or ocean whitefish is prohibited unless authorized in subsections (c) and/or (d). Minor clarification was made to the language as proposed in the Amended ISOR to include a reference to the definition of RCG complex.

Subsection (g) provides authority to the Department to close fisheries upon attainment of federal harvest guidelines (HGs) based on in-season monitoring of catch levels. Modifications to this subsection were adopted by the Commission to expand this closure authority to include subgroups of rockfishes and scorpionfish and to eliminate the provision that would allow fisheries to continue to operate without change inside depths of 20 fathoms or less. Language double-underlined in the Amended ISOR reflects the option of maintaining this clause, which was dependent on other decisions within this regulatory action. However, it was determined that maintaining that language is redundant, and the language was therefore eliminated by the Commission's action. If closure is enacted by the Department only for a 'subgroup of rockfish' when an OY is reached, rather than on all rockfish and lingcod fishing activity within the depth constraint, those fisheries will remain open until independent closure action is taken. Therefore, no additional authorization is needed for those fisheries to remain open inside of 20 fathoms during the open fishing season.

As proposed in the Amended ISOR, the Commission repealed the exception to rockfish and lingcod closures that had been provided for shore-based angling and diving in subsection (i). This action was proposed because there are increasingly restrictive state or federal OYs for the group of shallow nearshore rockfishes, cabezon and greenlings, and shore-based angling activity accounts for up to 60 percent of the recreational catch of some of these species. Eliminating the exception allows for all recreational anglers in a geographic area, whether they are diving from a boat or from shore, or fishing from a boat, from shore, from a pier or from a jetty, to be subject to the same seasonal closures.

#### **28.27. Lingcod.**

Since the Commission adopted significant reductions in the number of months when fishing opportunities are available in areas south of Cape Mendocino, regulatory language in this Section indicating the fishery is open all year was no longer appropriate. Alternately, the regulatory language provided in the revised ISOR refers to Section 27.82 where seasonal closures and areas are specifically defined for lingcod.

The Commission adopted the changes to this Section as proposed, although the term "angling" used in the text noticed in the Amended ISOR was replaced with the phrase "hook and line fishing" in the final regulatory language as a technical

correction requested by Department enforcement staff. The phrase “hook and line fishing” is more liberal than the definition of “angling” provided in Section 1.05, Title 14, CCR, as it allows for the fish to be captured on hook and line without voluntarily taking the bait or lure in its mouth. Marine sportfishing regulations for lingcod were not intended to limit fishing activity within the confines of the definition of angling.

Following the actions of the Council, the Commission maintained status-quo bag and size limit regulations for lingcod, allowing for two fish of not less than 24 inches statewide. Because the size and bag limit regulations that were adopted are consistent statewide, the regulatory text noticed in the Amended ISOR was modified for clarity, as there was no need to define regulations for the northern area separate from the central and southern areas, unlike Section 28.28 for cabezon and Section 28.29 for greenlings.

#### **28.28. Cabezon.**

Since the Commission adopted reductions in the number of months when fishing opportunities are available in areas south of Cape Mendocino, regulatory language in this Section indicating the fishery is open all year was no longer appropriate. Alternately, the regulatory language provided in the revised ISOR refers to Section 27.82 where seasonal closures and areas are defined for cabezon. Additionally, language prohibiting the take of cabezon in waters 20 fathoms or greater in depth in the cowcod closure areas was redundant given the specific prohibition in Section 27.82 (f), and therefore was eliminated.

As with Section 28.27 for lingcod above, the Commission adopted the changes to this Section as proposed, although the term “angling” used in the text noticed in the Amended ISOR was replaced with the phrase “hook and line fishing” in the final regulatory language. Additionally, the phrase “from a vessel or from shore” was not included in the final regulatory text as noticed in the Amended ISOR in order to keep the language consistent between the sections governing take of lingcod, cabezon, greenlings, scorpionfish, rockfish and ocean whitefish. Elimination of the phrase does not change the intent of the regulation as fishing activity can only occur from a vessel or from shore, and the Commission did not select to maintain specific exceptions to rockfish and lingcod closures for shore-based fishing previously provided in Section 27.82 (i).

Following actions of the Council, the Commission adopted significant changes to bag limits and seasons for cabezon in this regulatory action. For the first time, the Council included cabezon and greenlings in a recreational RCG complex bag limit with rockfish for areas south of Cape Mendocino, which was done to maximize fishing season lengths for rockfish in the central and southern areas (see changes to Section 27.82). This resulted in adoption of a 3-fish sub-limit for cabezon, within the aggregate RCG complex bag limit of 10 fish. For the

northern area, however, the bag limit of 10 cabezon will remain intact, coupled with a 12-month fishing season pursuant to Section 27.82.

The cabezon bag limit reduction coupled with the shorter season length in the areas south of Cape Mendocino is expected to preclude early closure of the fishery due to OY attainment, which occurred in 2002 pursuant to Section 52.10. Furthermore, by aligning seasons for rockfish, cabezon and greenlings, discard mortality of all these stocks should be minimized.

Although increasing the cabezon minimum size limit from 15 to 16 inches coastwide was under consideration by the Council, they did not select to make the change. The Commission concurred with that decision for the state's regulations. Given the reduction in the length of fishing season in most of the state's waters, there was not an additional need to increase the size limit, which was a measure proposed by the state of Oregon but could be used to help keep recreational catches within OY levels mandated by California.

#### **28.29. Kelp Greenling. Rock Greenling.**

Since the Commission adopted significant reductions in the number of months when fishing opportunities are available in areas south of Cape Mendocino, regulatory language in this Section indicating the fishery is open all year was no longer appropriate. Alternately, the regulatory language provided in the revised ISOR refers to Section 27.82 where seasonal closures and areas are specifically defined for greenlings. Additionally, language prohibiting the take of greenlings in waters 20 fathoms or greater in depth in the cowcod closure areas was redundant given the specific prohibition in Section 27.82 (f), and therefore was eliminated.

As with Section 28.27 for lingcod and Section 28.28 for cabezon above, the Commission adopted the changes to this Section as proposed, although the term "angling" used in the text noticed in the Amended ISOR was replaced with the phrase "hook and line fishing" in the final regulatory language. Additionally, the phrase "from a vessel or from shore" was not included in the final regulatory text as noticed in the Amended ISOR in order to keep the language consistent between the sections governing take of lingcod, cabezon, greenlings, scorpionfish, rockfish and ocean whitefish. Elimination of the phrase does not change the intent of the regulation as fishing activity can only occur from a vessel or from shore, and the Commission did not select to maintain specific exceptions to rockfish and lingcod closures for shore-based fishing previously provided in Section 27.82 (i).

Following actions of the Council, the Commission adopted significant changes to bag limits and seasons for greenlings in this regulatory action. For the first time, the Council included cabezon and greenlings in a recreational "RCG complex"

bag limit with rockfish for areas south of Cape Mendocino, which was done to maximize fishing season lengths in the central and southern areas (see changes to Section 27.82). This resulted in adoption of a two-fish sub-limit for greenlings of the genus *Hexagrammos* (which include kelp and rock greenlings), within the aggregate bag limit of 10 for fish of the RCG complex. For the northern area, however, the bag limit of 10 kelp greenlings and 10 rock greenlings will remain intact, coupled with a 12-month fishing season pursuant to Section 27.82.

The greenling bag limit reduction coupled with the shorter season length in the areas south of Cape Mendocino is expected to preclude early closure of the fishery due to OY attainment, which occurred in 2002 pursuant to Section 52.10. Furthermore, by aligning seasons for rockfish, cabezon and greenlings, discard mortality of all these stocks should be minimized.

#### **28.54. California Scorpionfish (Sculpin).**

Since the Commission adopted significant reductions in the number of months when fishing opportunities are available in areas south of Cape Mendocino, regulatory language in this Section indicating the fishery is open all year was no longer appropriate. Alternately, the regulatory language provided in the revised ISOR refers to Section 27.82 where seasonal closures and areas are specifically defined for scorpionfish.

As with Section 28.27 for lingcod, Section 28.28 for cabezon, and Section 28.29 for greenlings above, the Commission adopted the changes to this Section as proposed, although the term “angling” used in the text noticed in the Amended ISOR was replaced with the phrase “hook and line fishing” in the final regulatory language. Additionally, the phrase “from a vessel or from shore” was not included in the final regulatory text as noticed in the Amended ISOR in order to keep the language consistent between the sections governing take of lingcod, cabezon, greenlings, scorpionfish, rockfish and ocean whitefish. Elimination of the phrase does not change the intent of the regulation as fishing activity can only occur from a vessel or from shore, and the Commission did not select to maintain specific exceptions to rockfish and lingcod closures for shore-based fishing previously provided in Section 27.82 (i).

Following actions of the Council, the Commission adopted a statewide reduction in the scorpionfish bag limit from 10 fish to 5 fish, coupled with new seasonal constraints imposed in Section 27.82. These adjustments were made in order to keep sculpin catches within a newly-imposed federal OY for this species.

#### **28.55. Rockfish (Sebastes).**

Since the Commission adopted reductions in the number of months when fishing opportunities are available in areas south of Cape Mendocino, regulatory language in this Section indicating the fishery is open all year was no longer



appropriate. Alternately, the regulatory language provided in the revised ISOR refers to Section 27.82 where seasonal closures and areas are defined for rockfish. Additionally, language prohibiting the take of rockfish in waters 20 fathoms or greater in depth in the cowcod closure areas was redundant given the specific prohibition in Section 27.82 (f), and therefore was eliminated.

As with Section 28.27 for lingcod, Section 28.28 for cabezon, Section 28.29 for greenlings and Section 28.54 for scorpionfish above, the Commission adopted the season and bag limit changes to this Section as proposed, although the term “angling” used in the text noticed in the Amended ISOR was replaced with the phrase “hook and line fishing” in the final regulatory language.

The Commission adopted numerous proposed modifications to subsection (b) of this Section, including minor clarifying changes to the regulatory language from what was proposed in the Amended ISOR. The Commission maintained status-quo provisions for a two-fish bocaccio limit in the northern area when shelf fishing is closed pursuant to 27.82 (g), but continued fishing for rockfish is allowed inside of 27 fathoms for rockfish pursuant to Section 27.82 (c). This is contrary to the proposed language in the Amended ISOR, which called for a zero-fish bag limit for bocaccio during a northern shelf closure. The Commission did not adopt this change as there was no biological reason to be more restrictive for this species in the northern area than last year, and there is no federally-established OY for bocaccio for the area north of Cape Mendocino. Furthermore, the Council did not adopt more restrictive bag limits in the northern area for 2003.

The Commission maintained a 10-fish bag limit for rockfish for the areas south of Cape Mendocino in subsection (b)(2) as proposed. The Commission also approved regulatory language that specifies that rockfish are included in the aggregate RCG complex bag limits established in Section 27.60, including a sub-limit of two shallow nearshore rockfish.

Following the lead of the Council, the Commission did not adopt new recreational size limits for shallow nearshore rockfish as proposed in subsection (c), as the regulations were deemed not to be very effective at providing a reduction in the total take of these species. Rather, modified seasons and bag limits were selected as the preferred management strategies. Additionally, the Amended ISOR proposes to eliminate the 10-inch minimum size limit for bocaccio currently present in subsection (c). As the Commission decided to continue to allow for retention of two bocaccio in the northern area, repealing this regulation is no longer warranted.

Additionally, conforming to Council action, the Commission did not adopt proposed modifications to rockfish methods of take in subsection (d), which

would have required the use of barbless hooks or barbless circle hooks for rockfish fishing. At this time, there is not enough information to indicate that the proposed changes would successfully reduce hooking mortality to a substantial degree, while it could likely impose a negative impact on tackle manufacturers.

#### **28.58. Ocean Whitefish.**

Since the Commission adopted significant reductions in the number of months when fishing opportunities are available in areas south of Cape Mendocino, regulatory language in this Section indicating the fishery is open all year was no longer appropriate. Alternately, the regulatory language provided in the revised ISOR refers to Section 27.82 where seasonal closures and areas are specifically defined for ocean whitefish. Additionally, language prohibiting the take of ocean whitefish in waters 20 fathoms or greater in depth in the cowcod closure areas was redundant given the specific prohibition in Section 27.82 (f), and therefore was eliminated.

As with Section 28.27 for lingcod, Section 28.28 for cabezon, Section 28.29 for greenlings, Section 28.54 for scorpionfish and Section 28.55 for rockfish above, the Commission adopted the changes to this Section as proposed, although the term “angling” used in the text noticed in the Amended ISOR was replaced with the phrase “hook and line fishing” in the final regulatory language.

A technical correction is also needed to the regulatory language in Section 28.58. The proposed changes in the noticed language incorrectly refer to California scorpionfish rather than ocean whitefish.

#### **28.65 General.**

Conforming to the Council’s decisions, the Commission did not adopt proposed changes to subsection (c), which would have required that hooks used to take rockfish and lingcod be barbless circle hooks. See discussion in Section 28.55 above.

### **VI. Summary of Primary Considerations Raised in Support of or Opposition to the Proposed Actions and Reasons for Rejecting those Considerations:**

Comments received at the discussion meeting on August 29, 2002 were documented in the Pre-Adoption Statement of Reasons (see attached) as Table 1. A summary of public comments received at the adoption meeting on October 25, 2002, are documented in Table 2. The Department’s response to these comments is included.

### **VII. Location and Index of Rulemaking File:**

A rulemaking file with attached file index is maintained at:

California Fish and Game Commission  
1416 Ninth Street  
Sacramento, CA 95814

VIII. Location of Department Files:

Department of Fish and Game  
Marine Region  
20 Lower Ragsdale Drive  
Monterey, CA 93940

IX. Description of Reasonable Alternatives to Regulatory Action:

(a) Alternatives to Regulatory Action:

The regulatory options to manage the take of rockfish, lingcod, California scorpionfish, cabezon, greenlings, and ocean whitefish are proposed for the 2003 sport fishing season for consistency with Council management. These options and management measures include alternatives that are reasonably available at this time to achieve rebuilding goals for overfished rockfish, while still providing California's recreational fishery participants with some continued opportunities to fish for rockfish and lingcod in nearshore waters.

Other alternatives available to federal and State fisheries managers include either more drastic cuts in rockfish/lingcod bag limits or the elimination of all recreational fishing for rockfish, lingcod, California scorpionfish, and ocean whitefish off California. Either of these more drastic measures, in conjunction with commercial fishing restrictions being imposed on groundfish fisheries by the Council, would be expected to achieve the primary objective of reducing harvests of rockfish and lingcod sufficiently to contribute to rebuilding of these stocks. However, even if fishing is severely restricted as proposed under these regulatory options, or entirely curtailed, rebuilding of most overfished stocks is estimated to require decades before directed fishing on these species could again be authorized. Therefore, every effort is being made to adopt regulations that will continue to provide for some continued fishing opportunity and to avoid a total long-term elimination of fishing opportunities.

The option of further reducing the daily bag limit of rockfish is generally unpopular with the public because of the costs associated with fishing in offshore waters today relative to what fishermen consider a satisfying sport fishing experience. Rockfish are generally pursued by recreational anglers for their qualities as food rather than their fighting ability as a sport fish. Consequently, larger bag limits represent a higher quality fishing trip. Commercial passenger fishing vessels (CPFVs) that take anglers and divers

fishing for a fee are greatly concerned that if the number of rockfish in the daily bag limit is reduced sufficiently, anglers and divers will not pay to participate in this activity.

Total elimination of fishing, while still a possibility if future assessments of overfished stocks indicate little or no improvements, would have greater adverse social and economic effects than the proposed restrictions. These include the further shifting of fishing effort onto other fish stocks and the potential elimination of sectors of the recreational fishery during all or portions of the year, particularly off central and northern California where rockfish and lingcod represent a significant segment of marine finfish available to the fishing public.

(b) No Change Alternative:

The no change alternative does nothing to address the issues that the proposed changes are intended to deal with and will not allow federal rebuilding requirements to be met. The continued need to meet federal rebuilding goals for overfished shelf rockfish stocks, in combination with efforts to provide for some continued ability to fish for healthy stocks of shelf and nearshore rockfish without jeopardizing these stocks, argues for adoption of the additional management measures as proposed in the options.

(c) Consideration of Alternatives:

In view of information currently possessed, no alternative considered would be more effective in carrying out the purposes for which the regulation is proposed or would be as effective and less burdensome to the affected private persons than the proposed regulation.

X. Impact of Regulatory Action:

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following determinations relative to the required statutory categories have been made:

(a) Significant Adverse Economic Impact on Businesses, Including the Ability of California Businessmen to Compete with Businesses in Other States:

The proposed action is expected to have a coast wide adverse economic impact affecting business, although this is not expected to affect the ability of California businesses to compete with businesses in other states. The regulation changes are expected to further restrict recreational fishing opportunities in California, particularly the activities of commercial passenger fishing vessels (CPFVs) that rely in large part on taking passengers fishing for rockfish and lingcod to

offshore waters 20 fathoms or greater in depth. In regard to effects of rockfish and lingcod closures on the ability of local businesses to compete with businesses in other states, it is unlikely that fishermen unable to fish due to local closures would opt to go to Oregon to fish for rockfish and lingcod given that closures off northern California will also apply in waters off Oregon.

Generally, owners and operators of CPFVs that rely on fishing for rockfish and lingcod off central and northern California have fewer options than those CPFVs operating in waters off southern California. CPFVs that may no longer target rockfish and lingcod in shelf waters must either redirect their fishing operations to nearshore waters for rockfish and lingcod, target other species, or engage in other vessel activities, such as seasonal whale watching, or be faced with finding other occupations. Owners and operators of CPFVs off southern California often target rockfish and lingcod during winter months when resident and migratory game fishes are not as active or are unavailable. Owners and operators of many CPFVs off central and northern California often rely to a great extent on fishing for rockfish and lingcod; other available target species, including salmon and albacore, tend to be seasonally available.

The practical impact of these regulations is expected to be decreased recreational fishing activity for several species of rockfishes and lingcod along California's coast due to prohibition of the take of these species in waters deeper than 20 fathoms. The extent to which businesses associated with recreational fishing for these species will be affected depends on how consumer demand for their services responds under the proposed fishing restrictions. It is unlikely that most recreational fishermen will abandon all ocean fishing activities due to these regulations. Rather, as indicated above, some unknown portion of this fishing sector will substitute other less restricted ocean species in order to continue their ocean fishing activities, but some decrease in overall fishing activity will likely result.

Information from the National Marine Fisheries Service (NMFS) estimates anglers aboard CPFVs take roughly 43 percent of all ocean rockfishes caught by all recreational fishermen in northern California and 67 percent in southern California. Year 2001 fishing log data from the Department of Fish and Game show 5.9 percent of all northern California CPFV trips and 0.8 percent of all southern California CPFV trips took place in waters greater than 20 fathoms and specifically targeted rockfish and lingcod. Of those total trips in 2001 for which logs indicate rockfish and lingcod as the target species, the proportion of fishing trips to waters greater than 20 fathoms is 34 percent and 75 percent for northern and southern California, respectively. Based on 2002 surveys, average passenger fares for fishing trips on CPFV boats are \$74 and \$57 for northern California and for southern California, respectively. In a 1998-1999 NMFS report of marine recreational fishing trip-related expenditures, an estimated

\$17.0 million is directed annually to CPFV services in northern California and \$81.4 million is directed annually to CPFV services in southern California.

In the worst case scenario (all former rockfish and lingcod trips to waters greater than 20 fathoms are considered lost revenue to the CPFV fishing sector), we can project annual revenue losses to CPFV owners and related businesses of \$998,000 in Northern California (or 5.9 percent of \$17 million), and \$666,000 in Southern California (or 0.8 percent of \$81.4 million). However, that it is unlikely that revenue losses this high will occur, since recreational fishermen may substitute other ocean species for rockfish and lingcod.

Since these conformance regulations are subject to review and change each year, costs impacts are projected for one-year only. This one-year time horizon for cost impacts, equal to the useful life of the proposed regulations, thus does not require present value discounting.

- (b) Impact on the Creation or Elimination of Jobs Within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California:

Some loss of jobs could result if CPFVs are unable to continue to operate profitably due to the closures and other proposed regulatory measures [See comments under (a) above].

- (c) Cost Impacts on a Representative Private Person or Business:

The Commission is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

- (d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None
- (e) Nondiscretionary Costs/Savings to Local Agencies: None
- (f) Programs mandated on Local Agencies or School Districts: None
- (g) Costs Imposed on Any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4: None
- (h) Affect on Housing Costs: None



## Updated Informative Digest (Plain English Overview)

Under existing law, west coast groundfish, including rockfish and lingcod, are managed by the Pacific Fishery Management Council (Council) pursuant to the Pacific Coast Groundfish Fishery Management Plan (Groundfish Plan) to comply with policies and standards of the Federal Sustainable Fisheries Act, Public Law 94-265. The California Fish and Game Commission (Commission) adopts sport fishing regulations for groundfish that conform to those of the Council.

The Council met September 10-13, 2002 to develop final regulatory recommendations affecting ocean recreational and commercial groundfish fisheries and fisheries for associated species commencing January 1, 2003. The Commission adopted regulations at their meeting on October 25, 2002, to conform to these new federal regulations.

Current federal law requires that rebuilding plans be adopted for groundfish stocks that are determined by the Council to be overfished. A number of shelf and slope rockfish (those generally found deeper than 20 fathoms) and lingcod are currently assessed as overfished, with rebuilding expected to take several decades. Overfished rockfish stocks and associated species for which increasingly restrictive federal regulations were adopted for 2003 include bocaccio, canary, and yelloweye rockfish.

The regulatory changes were designed not only to help meet rebuilding goals for these species, but also to help keep catches of nearshore fish stocks within harvest guidelines established for nearshore rockfish, California scorpionfish, cabezon, and greenlings. Additionally, these measures account for the expectation that closure of shelf fishing activities will result in redirected and thus increased fishing effort upon the nearshore fish stocks which can still be targeted.

Specific changes to state law adopted by the Commission commencing in 2003 include:

A) Creation of two new management “groups” including definitions and bag limits: “shallow nearshore rockfish,” two fish bag limit; and “RCG complex,” 10 fish bag limit (an aggregate of rockfish, cabezon and greenlings). Both groups have special conservation needs stemming from new harvest guidelines adopted by the Council for nearshore rockfish and sculpin stocks south of Cape Mendocino.

B) Reduced bag limits and seasonal adjustments south of Cape Mendocino for cabezon of 3 (from 10) fish and for greenlings of 2 (from 10) fish. These fish are now part of the RCG complex and their inclusion in the bag limits and rockfish



and lingcod fishing seasons will help reduce impacts on rockfish stocks while maximizing season lengths for all species. This year, both cabezon and greenling fisheries were closed early in the year due to quota attainment.

C) An inseason closure mechanism is proposed for rockfish and lingcod fisheries north of Cape Mendocino in waters 27 fathoms or greater in depth if/when the harvest guidelines for canary or yelloweye rockfish is reached. This change is needed to reduce impacts on these two overfished rockfish stocks in the event one or the other harvest guideline is reached before the end of the year while providing for continued fishing opportunity for nearshore fish stocks. Additionally, once a harvest guideline is reached, the bag limit for both of those species is to be zero for the remainder of the year. Other rockfish and lingcod bag and size limits for this area were unchanged from 2002 regulations.

D) A special season for California scorpionfish (sculpin) in southern California in the area of the Huntington Flats is provided in waters shallower than 50 fathoms during the months of July-August. This will allow recreational anglers to intercept these fish during their annual spawning migration in the area and will complement a commercial regulation for the same area and time period.

E) Additional language is included that authorizes the Department to close part of a Rockfish and Lingcod Management Area based on harvest guidelines established for subgroups of fishes. This is similar to provision C above, although pertains to fisheries within 20 fathoms in the areas south of Cape Mendocino, and was driven by the adoption of new management subgroups for shallow nearshore rockfish, deeper nearshore rockfish and California scorpionfish.

F) Changes in bag limits for overfished species south of Cape Mendocino include zero retention on bocaccio, canary and yelloweye rockfish. A change was also made to the bag limit for California scorpionfish from 10 fish to 5 fish to keep catches within a newly established federal optimum yield for that species.